

*United States Court of Appeals  
for the Second Circuit*



**APPENDIX**



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mailing

**74-2636**

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**B**

**PIS**

**United States Court of Appeals  
FOR THE SECOND CIRCUIT**

**Docket No. 74-2636**

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JAMES C. KING ,

*Plaintiff-Appellant,*

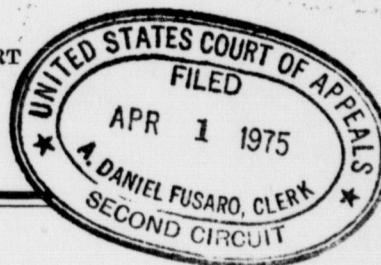
*—against—*

UNITED STATES CIVIL SERVICE COMMISSION,  
ROBERT E. HAMPTON, JAYNE B. SPAIN,  
L. J. ANDOLSEK, MAURICE L. ETZELL and  
KIMBELL JOHNSON,

*Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK



**APPELLEES' APPENDIX**

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DAVID G. TRAGER,  
*United States Attorney,*  
*Eastern District of New York.*

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**3**

**PAGINATION AS IN ORIGINAL COPY**

NOTIFICATION OF PERSONNEL ACTION

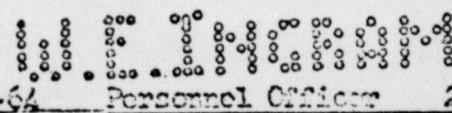
6 PART  
50-117

(For agency use)

40043 02-20-64 1 0 02-20-64 0779 600 CS 1

1. NAME (CAPS) LAST-FIRST-MIDDLE		MR.-MISS-MRS.	2. (For agency use)	3. BIRTH DATE (Mo., Day, Year)	4. SOCIAL SECURITY NO.
KING, JAMES G., JR.		Mr.		04-12-27	413-20-1901
5. VETERAN PREFERENCE		6. TENURE GROUP	7. SERVICE COMP. DATE	8. PHYSICAL HANDICAP CODE	
1 2-5 PT.	3-10 PT. DISAB. 4-10 PT. COMP.	5-10 PT. OTHER	2	09-20-64	CO
9. FEGLI 1-COVERED 2-INELIGIBLE 3-WAIVED		10. RETIREMENT 1-CS 2-FICA 3-FS 4-NONE	5- OTHER	11. (For CSC use)	
12. NATURE OF ACTION 101 CODE Career-Conditional Appt.		13. EFFECTIVE DATE (Mo., Day, Year) 02-20-64	14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY NBS Cert. #2-1913, std. 3-14-64		
15. FROM: POSITION TITLE AND NUMBER		16. PAY PLAN AND OCCUPATION CODE	17. GRADE OR LEVEL	18. SALARY	
Chemist (Organic) 2500-040-25		1 GS-1320	07 / 01	pa \$ 7,050	
24. NAME AND LOCATION OF EMPLOYING OFFICE Patent Office Washington, D. C.		Office of Research & Development			
25. DUTY STATION (City—county—State) Washington, D. C.		26. LOCATION CODE 08-0010-001			
27. APPROPRIATION		28. POSITION OCCUPIED 1—COMPETITIVE SERVICE 2—EXCEPTED SERVICE 1	29. APPORTIONED POSITION FROM: TO: 1—PROVED-1 2—WAIVED-2	STATE DC	
30. REMARKS: A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING 02-20-64 B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM: 02-20-64					
SEPARATIONS: SHOW REASONS BELOW, AS REQUIRED. CHECK IF APPLICABLE:		C. DURING PROBATION D. FROM APPOINTMENT OF 6 MONTHS OR LESS			

Subject to satisfactory report of investigation as to suitability for employment.

31. DATE OF APPOINTMENT AFFIDAVIT (Accessions only)	34. SIGNATURE (Or other authentication) AND TITLE 
02-21-64	
32. OFFICE MAINTAINING PERSONNEL FOLDER (If different from employing office)	
33. CODE EMPLOYING DEPARTMENT OR AGENCY GPO U.S. Department of Commerce	35. DATE 02-21-64 Personnel Officer 2754

CLAPX

94

August 24, 1965

Mr. James G. King, Jr.  
Chemist  
Office of Research and Development

Dear Mr. King:

This is notice that your employment as Chemist, GS-7, in the U. S. Patent Office is hereby terminated effective at the close of business on September 3, 1965.

The termination during your probationary period is based on performance deficiencies. You have been informed on several occasions that your interpretation of patent content requires excessive review and revision by other members of the staff. The Personnel Division received a memorandum from your supervisor on August 11, 1965, indicating that your progress in this field of work has been poor and that you have not progressed to a level of performance which is satisfactory for a trainee. Accordingly, you have failed to qualify for the position of Chemist, GS-7, during probationary period due to lack of aptitude for interpreting and understanding patent disclosures.

I have attached a copy of an SF-50 (Personnel Action) effecting the termination of your appointment.

Sincerely yours,

SGD. W. E. INGRAM  
W. E. Ingram  
Personnel Officer

Attachment

bcc: Personnel File  
Supervisor (Spencer)  
Disc. File  
bcc: *Signer*

DATE: See attached statement

RECEIVED: \_\_\_\_\_

**NOTIFICATION OF PERSONNEL ACTION**

6 PART  
50-117

(For agency use) 43843 09-20-64 1 0 09-20-64 0779 000 08 1

1. NAME (CAPS) LAST-FIRST-MIDDLE		MR.—MISS—MRS.	2. (For agency use)	3. BIRTH DATE (Mo., Day, Year)	4. SOCIAL SECURITY NO.
KING, JAMES G., JR.		Mr.		04-12-27	413-28-1981
5. VETERAN PREFERENCE		6. TENURE GROUP	7. SERVICE COMP. DATE	8. PHYSICAL HANDICAP CODE	
1 1—NO 2—3 PT.	3—10 PT. DISAB. 4—10 PT. COMP.	5—10 PT. OTHER	2	07-19-57	00
9. FEGLI		10. RETIREMENT	11. (For CSC use)		
1—COVERED	2—INELIGIBLE	1—CS 2—FICA	3—FS 4—NONE	5—OTHER	
12. NATURE OF ACTION		13. EFFECTIVE DATE (Mo., Day, Year)		14. CIVIL SERVICE OR OTHER LEGAL AUTHORITY	
329 CODE	Termination during probation	09-03-65			
15. FROM: POSITION TITLE AND NUMBER		16. PAY PLAN AND OCCUPATION CODE	17. GRADE OR LEVEL	18. SALARY	
Chemist (Organic) 2500-046-25		1 GS-1320	07 / 01	pa \$ 7,050	
19. NAME AND LOCATION OF EMPLOYING OFFICE					
Patent Office Washington, D. C.			Office of Research & Development		
20. TO: POSITION TITLE AND NUMBER		21. PAY PLAN AND OCCUPATION CODE	22. GRADE OR LEVEL	23. SALARY	
24. NAME AND LOCATION OF EMPLOYING OFFICE					
25. DUTY STATION (City—county—State) Washington, D. C.				26. LOCATION CODE 08-0010-001	
27. APPROPRIATION		28. POSITION OCCUPIED	29. APPORTIONED POSITION		
		1—COMPETITIVE SERVICE 1 2—EXCEPTED SERVICE	FROM:	TO:	STATE
30. REMARKS:		A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING _____			
		B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM: _____			

B. REMARKS: **A. SUBJECT TO COMPLETION OF 1 YEAR PROBATIONARY (OR TRIAL) PERIOD COMMENCING** \_\_\_\_\_  
**B. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM** \_\_\_\_\_

6. SERVICE COUNTING TOWARD CAREER (OR PERMANENT) TENURE FROM: \_\_\_\_\_

SEPARATIONS: SHOW REASONS BELOW, AS REQUIRED. CHECK IF APPLICABLE:

Reason: Failure to qualify during probationary period due to lack of aptitude for

reason. Failure to qualify during prescriptive period due to lack of aptitude for understanding and understanding patent disclosures. Reclassification based on

interpreting and understanding patent disclosures. Disqualification based on Performance deficiencies, as stated in letter of August 24, 1965

**31. DATE OF APPOINTMENT AFFIDAVIT (Accessions only)** **34. SIGNATURE (Or other authentication) AND TITLE**

32. OFFICE MAINTAINING PERSONNEL FOLDER (If different from employing office)

33. CODE EMPLOYING DEPARTMENT OR AGENCY  
CM 11 U. S. Department of Commerce

35. DATE 08-24-65 Personnel Officer 2704

Co. 6 P.M.

98

RECEIVED - CSC  
SUN 01 31 SEP 14 PM 3:17  
MIL AND COMM. UNIT

9/15

A 4

*Mr. James Morrison*  
Not for circulation

SUN 01 31 SEP 14 65 WB134  
(US) DL WASHINGTON DC 14 246P EDT  
UNITED STATES CIVIL SVC COMMISSION, APPEALS AND EXAMINING  
OFFICE CARE HON JOHN W MACY, CHAIRMAN  
1900 E ST NORTHWEST WASHDC

DEAR SIR IN REPLY TO CORRESPONDENCE, DATED 9/9/65 I RESPECTFULLY  
SET FORTH MY BASIS FOR APPEAL, HEREIN A MARITAL STATUS-A BOND  
ISSUE TO BE UTILIZED FOR THE EDUCATION OF MY CHILDREN HAS  
BEEN PREJUDICED, BECAUSE OF UNJUSTIFIABLE PERSONNEL ACTION,  
AND OR MY PERSONAL IGNORANCE OF CIVIL SERVICE STATUTES GOVERNING  
MY APPEL RIGHTS, AS A PROBATIONARY EMPLOYEE B. PHYSICAL HANDICAP  
UNDUE MENTAL AND/OR EMOTIONAL PRESSURES WERE BROUGHT TO BEAR  
UPON MY PROFESSIONAL CAPABILITIES BECAUSE OF IMPERFECTIONS  
EXISTING WITHIN THE RESEARCH AND DEVELOPMENT SYSTEMS STUDIED,  
OVERWHICH I AS AN ANALYST HAD NO CONTROL, THESE IN ESSENCE  
MAY HAVE NULLIFIED POSITIVE APPROACHES TO INTERPRETATION AND/OR

RECEIVED  
APPEALS EXAMINING  
OFFICE  
SEP 15 1965

APTITUDE.

APPEAL IS BASED UPON CLAUSES AS EXCERPTED FOR ME FROM  
THE CIVIL SERVICE REGULATIONS MANUAL THANK YOU  
JAMES GILBERT KING JR

9/9/65 A B  
(13).

SAID

85

RETURNED

NOV 26 1965

Mr. James G. King, Jr.  
5321 Shaine Street, N.E.  
Washington, D. C. 20019

THIS COPY ONLY RECEIVED  
RECORDS ADMINISTRATION SECTION

Dear Mr. King:

We can take no action on your appeal filed by telegram dated September 14, 1965 protesting your termination during probation from the position of Chemist (Organic) GS-1320-07/01, \$7,050 per annum, Patent Office, Department of Commerce, Washington, D.C. effective September 3, 1965.

Section 315.806 of the Civil Service regulations provides that probationary employees who are separated because their performance of their duties is not satisfactory to the agency may appeal to the Civil Service Commission only on the grounds that the action was taken for political reasons not required by law or resulted from discrimination because of sex, marital status, or physical handicap.

In your telegram you set forth marital status and physical handicap as the bases of your appeal.

You assert the agency action has (1) prejudiced a bond issue which was to be utilized for the education of your children and (2) nullified a family group insurance plan.

Although we recognize that the aforementioned may result from the termination of ones employment they in no way support an allegation of discrimination because of marital status as the cause of the removal action.

You said that undue mental and/or emotional pressures were brought to bear upon your professional capabilities because of imperfections existing within the research and development systems studied.

To meet the test of discrimination because of physical handicap one must show: (1) the existence of a physical handicap; (2) that despite the handicap the employee is ready, willing and able to perform the duties of his position and (3) that the agency refused to allow him to perform because of the handicap.

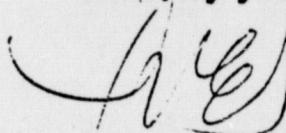
Your explanation, supra, does not support a conclusion that your removal was grounded in discrimination because of physical handicap.

The appeal is denied as it is not within the purview of section 315.306 of the Civil Service Regulations.

This decision becomes a final decision of the Civil Service Commission unless either the appellant or the employing agency files an appeal with the Board of Appeals and Review, U. S. Civil Service Commission, Washington, D. C. 20415, within seven (7) days of receipt of this decision.

Section 772.307 of the Commission's regulations provides that such an appeal must be filed in writing setting forth the basis for the appeal.

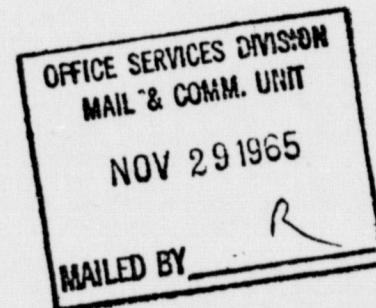
Sincerely yours,



James T. Masterson, Chief  
Appeals Examining Office

XAE:APP:MEsedmak:ctw

cc: Mr. W. E. Ingram  
Personnel Officer  
US Patent Office  
Department of Commerce  
Washington, D. C.



CLASS OF SERVICE  
This is a fast message  
unless its deferred character is indicated by the  
proper symbol.

# WESTERN UNION

## TELEGRAM

W. P. MARSHALL  
CHAIRMAN OF THE BOARD

R. W. McFALL  
PRESIDENT

SYMBOLS	
DL	Day Letter
NL	Night Letter
LT	International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination.

LLE024 SPOC020 WA022

A 7

(SU) NL PD WASHINGTON DC 2

HONORABLE JAMES MATERSON, PERSONAL DELIVERY ONLY

CHIEF OF THE APPEALS EXAMINING SECTION UNITED STATES CIVIL  
SERVICE COMMISSION 1900 E ST NORTHWEST WASHDC

DEAR SIR

HEREIN, IS A REPLY TO YOUR RECENT CORRESPONDENCE CITING  
ME AS AN APPELLANT UNDER THE DESCRIBED CODES. MY ATTORNEYS  
IN CONJUNCTION WITH THE BOARD OF TRUSTEES FISK UNIVERSITY SHALL  
ANSWER YOU IN WRITING. THIS CONSTITUTES <sup>RECEIVED</sup> MY PERSONAL NOTICE TO  
YOU. THANK YOU

JAMES G KING JR.

RECEIVED  
APPEALS EXAMINING  
OFFICE

DEC 3 1965

82

March 18, 1966

A 8

Mr. James G. King, Jr.  
5321 Elaine Street, N.E.  
Washington, D. C. 20019

Dear Mr. King:

This refers to your appeal from the decision of the Commission's Appeals Examining Office that your separation during probationary period from the position of Chemist (Organic), Office of Research and Development, Patent Office, Washington, D.C., was not the result of discrimination because of physical handicap.

The Commission regards the probationary period of an employee as a final, and significant, step in the examining process since that period is actually a test of on-the-job performance. Therefore, the Civil Service Regulations provide that separation action should be initiated whenever the probationer's work performance or conduct fails to demonstrate his fitness or his qualifications for continued Federal employment. The regulations further provide that when separation is based entirely on deficiencies in performance or conduct after appointment, the employee is notified in writing as to why he is being terminated and the effective date of the action. He has no right of appeal to the Civil Service Commission unless it is alleged, by affidavit, that the action was taken for political reasons not required by law, or resulted from discrimination because of sex, marital status or physical handicap.

In appealing to the Commission, you alleged discrimination because of physical handicap in that "undue mental and/or emotional pressures were brought to bear upon my professional capabilities. . . ." However, although two extensions of time were granted you for the submission of representations in support of your appeal, no further information has been received. Therefore, inasmuch as there is no evidence to support a finding of discrimination because of physical

APPEAL-TEMP,

handicap, and inasmuch as you were separated during probationary period for unsatisfactory work performance; there is no action which may be taken on your case and the decision of the Appeals Examining Office is affirmed.

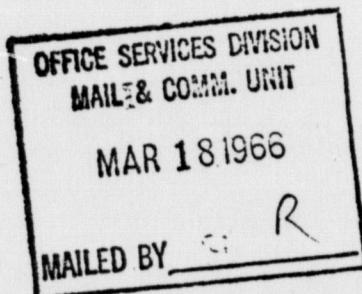
For the Commissioners:

Sincerely yours,

*Hanley* 3/16/66  
E. T. Groark  
Chairman, Board of Appeals  
and Review

*Keith* 3/16/66

ELKeith



INA:INV

A 10

MAY 23 1966

Mr. James G. King, Jr.  
5321 Blaine Street, N. E.  
Washington, D. C. 20019

Dear Mr. King:

Reference is made to your applications for Patent Examiner, filed with the Board of U. S. Civil Service Examiners, U. S. Patent Office, Research Chemist, filed with the Board of U. S. Civil Service Examiners, National Bureau of Standards, and Chemist, filed with the Commission's Bureau of Recruiting and Examining.

On your applications for Chemist and Research Chemist you admitted that you had been discharged from employment, referring to the Commission's Appeals Examining Office. You stated that you were terminated from the position of Chemist, Bureau of the Mint, during the test period.

Your official personnel record shows the following terminations from Government employment:

9/3/65 -- Chemist (Organic), U. S. Patent Office, Washington, D. C., for failure to qualify during probationary period due to lack of aptitude for interpreting and understanding patent disclosures. This action was upheld by the Commission on appeal.

1/8/66 -- Chemist (Organic), Bureau of the Mint, Washington, D. C., for failure to meet the minimum quantity standards expected of a Chemist in the laboratory.

In general, the Commission will not accept applications from persons who have been recently separated for inability to perform satisfactorily duties in same or similar positions.

After careful consideration of all the facts and circumstances in your case, the Commission has determined that you are presently

APPEAL-TEMP.

A 11

2

disqualified for these positions under the provisions of Civil Service Regulation 731.201 because of your recent terminations from similar positions for unsatisfactory service.

Therefore, your applications are rated ineligible.

Sincerely yours,

H. C. Bolton, Chief  
Division of Adjudication

INA:LADoughty:et 5/20/66

UNITED STATES CIVIL SERVICE COMMISSION  
BUREAU OF PERSONNEL INVESTIGATIONS  
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

INA:INV

YOUR REFERENCE

A 12

JUL 12 1966

Mr. James G. King, Jr.  
5321 Blaine Street, N. E.  
Washington, D. C. 20019

Dear Mr. King:

This refers to your appeal from the action taken by the Division of Adjudication under date of May 23, 1966, rating ineligible your applications for Patent Examiner, Chemist, and Research Chemist.

After careful consideration of your appeal and the entire record in your case, the original decision is reversed. Accordingly, the ineligible ratings of May 23, 1966, are rescinded, and your applications have been accepted insofar as your separation from prior employment is concerned.

Your application for Patent Examiner has been referred to the Board of U. S. Civil Service Examiners, U. S. Patent Office; your application for Research Chemist has been referred to the Board of U. S. Civil Service Examiners, National Bureau of Standards; and your application for Chemist has been referred to the Commission's Bureau of Recruiting and Examining. Your name will be placed on appropriate lists of eligibles, and any further communications you may have regarding these applications should be directed to the appropriate Boards.

Enclosed is material which you furnished in connection with your appeal.

Sincerely yours,

*Kimbell Johnson*  
Kimbell Johnson  
Director

Enclosure

United States District Court  
For The  
Eastern District of New York

A. 13

CLERK

STATE COURT  
DISTRICT

James G. King, Jr. 72C 914

119-73 Merrill Street

Jamaica Long Island, New York  
or

5321 Blaine Street N.E.

Washington, District of Columbia 20025

-Plaintiff-

VS

The United States Civil Service Commission

Nineteenth and E Streets North West

Washington, District of Columbia 20025

-Defendants-

-Complaint-

(Monetary Damages; IMMEDIATE reinstatement)

(I) This Court has Jurisdiction in that  
application's for this Civil Service  
Were filed recently.

(II) A Duly adjudicated file per official  
Hearing Before the Inspector's of The  
Commission is Defacto.

Here in is included With the Court's  
indulgence a formal Motion for a  
Complete Examiner's Hearing in the  
Presence of My Surrogate to Determine  
Status quo of all personnel files relating  
To the Plaintiff's Employment tenure.

Where fore: With Sufficient cause the  
Plaintiff Shall Demand Judgement against  
the Defendants: Retroactive Back pay (\$5,000.00)  
With Current Career Status of Equity

By Plaintiff/Surrogate James G. King, Jr.

James G. King, Jr.

-----X

JAMES G. KING, JR.  
119-73 Merrill St.  
Jamaica, Long Island, New York  
- or -  
5321 Blaine Street, N. E.  
Washington, District of Columbia 20019.

Index # 72 C 914  
File # 720904

Plaintiff

vs.

Mr. Maurice L. Etzell, Chief  
Program Evaluation Division  
U. S. Civil Service Commission  
Bureau of Inspections

Defendant

-----X

- COMPLAINT -  
(Amendment)

(Monetary Damages: Equitable adjudication of Back Pay Schedule)

- I. This Court has Jurisdiction in that applications for this Civil Service were recently adjudicated per Judicial Review (amendment pending).
- II. A duly adjudicated file per official Hearing before the Inspector's of the Civil Service Commission is De facto.
- III. De Facto Denials of the plaintiff's rights (Constitutional) are a matter of current certiorari.

Re: Summary: citations: Review  
Cites include, namely:

- (A) The Fifth Amendment to the U. S. Constitution regarding Denial of Due Process in the handling of the plaintiff's Civil Service Records: Promotional opportunities.
- (B) The Civil Rights Act of 1965, wherein the above causals produced undue hardships on the plaintiff's family and Legal Counsels.
- (C) "Constitutional Jeopardy", under Title 18- United States Code - Section 1001 et al.

Herein is included, with the Court's indulgence, a formal motion to amend, as follows procedural, namely:

- (A) The Demand of Judgement against the Defendants to read for the Record \$10,000, per stipulations of the Tucker Amendment.
- (B) Suppression of the Demand for Reinstatement.
- (C) Continued Judicial Supervision of the Plaintiff's Demand for Career Status of Equity under U. S. Constitutional Guarantee:

A 15

WHEREFORE,

With continuing cause the plaintiff shall ask  
pro se judgement of \$10,000 in personal damages.

by Plaintiff / Surrogate James G. King, Jr.  
James G. King, Jr.

----- x  
JAMES G. KING, JR.  
119-73 Merrill St.  
Jamaica, Long Island, New York  
or  
5321 Blaine Street N.E.  
Washington, District of Columbia 20019

Index # 72 C-914  
File # 720904

Plaintiff

vs.

The Honorable Kimball Johnson  
Director of Personnel Investigations  
United States Civil Service Commission  
Washington, D. C. 20025

Defendant

----- x  
- COMPLAINT -  
(Amendment)

(Monetary Damages: Equitable adjudication of Back Pay Schedules)

- I. This Court has Jurisdiction in that applications for this Civil Service were recently adjudicated per Judicial Review (amendment pending).
- II. A duly adjudicated file per official Hearing before the Inspector's of the Civil Service Commission is Defacto.
- III. De facto Denials of the plaintiff's rights (Constitutional) are a matter of current certiorari.

Re: Summary: citations: Review  
Cites include, namely:

- (A) The Fifth Amendment to the U. S. Constitution regarding Denial of Due Process in the handling of the plaintiff's Civil Service Records: Promotional opportunities.
- (B) The Civil Rights Act of 1965, wherein the above causals produced undue hardships on the plaintiff's family and Legal Counsels.
- (C) "Constitutional Jeopardy", under Title 18- United States Code - Section 1001 et al.

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- (A) The Demand of Judgement against the Defendants to read for the record \$10,000, per stipulations of the Tucker Amendment.
- (B) Suppression of the Demand for reinstatement.
- (C) Continued Judicial Supervision of the Plaintiff's Demand for Career status of Equity under U. S. Constitutional Guarantee:

WHEREFORE,

With continuing cause the plaintiff shall ask  
pro se judgement of \$10,000 in personal damages.

by Plaintiff / Surrogate James G. King, Jr.  
James G. King, Jr.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

JAMES G. KING, JR.,

Plaintiff

COMPLAINT

- against -

Civil Action File  
No. 72 C 914

THE UNITED STATES CIVIL SERVICE  
COMMISSION, ROBERT E. HAMPTON, AS  
COMMISSIONER, Et. Al.,

Defendants.

-----X

1. Plaintiff is a citizen of the State of New York and  
Defendant is an agency of the Federal government, having its  
principal place of business in the District of Columbia.

2. Jurisdiction is conferred upon this court by Public  
Law 88-519, 78 Stat. 699.5. The matter in controversy does not  
exceed in monetary value the sum of \$10,000, exclusive of interest  
and costs.

3. Robert E. Hampton is sued herein as Commissioner  
and a member of the United States Civil Service Commission. As  
such, he is responsible for the internal direction and regulations  
of the U. S. Civil Service, including the terms and conditions and  
procedures for termination of employees of the United States  
Government.

4. Maurice L. Etzell, is sued herein as Chief, Depart-  
ment of Program Evaluation, Bureau of Inspections. As such, he is  
responsible for the inspection of qualifications of persons employed  
in the Federal Civil Service.

5. Kimbell Johnson is sued herein as Director of Bureau  
of Personnel Investigations. As such, he is responsible for the  
investigation of allegations of wrongful conduct by employees of  
the Division and Personnel, and for the further reason of his failure  
to direct the reemployment of the Plaintiff herein.

6. On or about May, 1966, the Defendant, by its division of adjudication wrongfully and illegally awarded an ineligible rating as an employee of the Federal Civil Service to the Plaintiff. Allegations that the Plaintiff lacked aptitude for interpreting and understanding scientific disclosures and further allegations that the plaintiff failed to meet the minimum quantity standards expected were wholly untrue and not sustained by any substantial evidence resulted in the wrongful termination of the Plaintiff's employment.

7. Plaintiff was employed by The Bureau of Mines as a chemist.

8. In correspondence to the Plaintiff herein, the Defendant, Kimbell Johnson, reversed the original wrongful decision finding the Plaintiff ineligible, which finding was the basis for the wrongful discharge of the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

1. Directing the re-employment of the Plaintiff as a chemist, U. S. Patent Office, Bureau of Mines.

2. For a sum of money as damages from the date of termination of employment to the date of reemployment, minus his interim earnings.

3. Attorney fees, costs and such other relief as the Court deems to be just and proper.

Dated: October , 1973  
New York, New York

---

JOHN L. EDMONDS  
Attorney for Plaintiff  
500 Fifth Avenue  
56th Floor  
New York, N.Y. 10036  
(212) 354-6363

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
JAMES G. KING, JR.,

Plaintiff,

-against-

THE UNITED STATES CIVIL SERVICE  
COMMISSION, ROBERT E. HAMPTON, as  
Commissioner, et als.,

COMPLAINT

Civil Action  
No. 72 C 914

Defendants.

-----X  
1. Plaintiff is a citizen of the State of New York  
and Defendant is an agency of the Federal government, having  
its principal place of business in the District of Columbia.

2. Jurisdiction is conferred upon this court by  
Public Law 88-519, 78 Stat. 699.5. The matter in controversy  
does not exceed in monetary value the sum of \$10,000, exclu-  
sive of interest and costs.

3. Robert E. Hampton, Jayne B. Spain and L.J.  
Andolsek are sued herein as Commissioners and as members of  
the United States Civil Service Commission. As such, they  
are responsible for the internal direction and regulations  
of the U.S. Civil Service, including the terms and conditions  
and procedures for termination of employees of the United  
States Government.

4. Maurice L. Etzell, is sued herein as Chief,  
Department of Program Evaluation, Bureau of Inspections. As  
such, he is responsible for the inspection of qualifications  
of persons employed in the Federal Civil Service.

5. Kimbell Johnson is sued herein as Director of  
Bureau of Personnel Investigations. As such, he is respon-

sible for the investigation of allegations of wrongful conduct by employees of the Division and Personnel, and for the further reason of his failure to direct the reemployment of the Plaintiff herein.

6. On or about May, 1966, the Defendant, by its division of adjudication wrongfully and illegally awarded an ineligible rating as an employee of the Federal Civil Service to the Plaintiff. Allegations that the Plaintiff lacked aptitude for interpreting and understanding scientific disclosures and further allegations that the Plaintiff failed to meet the minimum quantity standards expected were wholly untrue and not sustained by any substantial evidence resulted in the wrongful termination of the Plaintiff's employment.

7. Plaintiff was employed by The Bureau of Mines as a chemist.

8. In correspondence to the Plaintiff herein, the Defendant, Kimbell Johnson, reversed the original wrongful decision finding the Plaintiff ineligible, which finding was the basis for the wrongful discharge of the Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

1. Directing the reemployment of the Plaintiff as a chemist, U.S. Patent Office, Bureau of Mines.

2. For a sum of money as damages from the date of termination of employment to the date of reemployment, minus his interim earnings.

3. Attorney fees, costs and such other relief as

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the Court deems to be just and proper.

Dated: March 25, 1974  
New York, New York

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JOHN L. EDMONDS  
Attorney for Plaintiff  
500 Fifth Avenue  
56th Floor  
New York, New York 10036  
(212) 354-6363

## AFFIDAVIT OF MAILING

STATE OF NEW YORK  
COUNTY OF KINGS  
EASTERN DISTRICT OF NEW YORK

} ss

LYDIA FERNANDEZ

being duly sworn,

deposes and says that he is employed in the office of the United States Attorney for the Eastern District of New York.

two copies

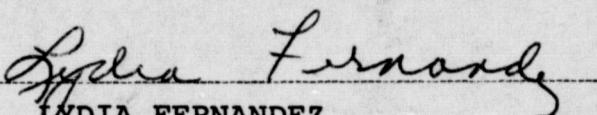
That on the 26th day of March 1975 he served ~~copy~~ of the within

Appellee's Appendix

by placing the same in a properly postpaid franked envelope addressed to:

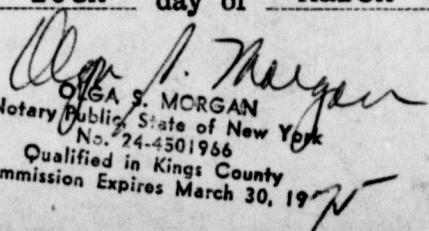
Mr. James G. King, Jr.  
119-73 Merrill Street  
Jamaica, N. Y.

and deponent further says that he sealed the said envelope and placed the same in the mail chute drop for mailing in the United States Court House, Washington Street, Borough of Brooklyn, County of Kings, City of New York.

  
LYDIA FERNANDEZ

Sworn to before me this

26th day of March 19 75

  
ORLGA S. MORGAN  
Notary Public, State of New York  
No. 24-4501966  
Qualified in Kings County  
Commission Expires March 30, 1975